ADR SERVICES, INC. & THE WOMEN IN TRIAL TRAVEL SUMMIT PRESENT

WHAT I WISH THE OTHER SIDE KNEW
TOP TIPS FROM OUR SPEAKERS

Debra Bogaards, Esq.
ADR Services, Inc.
Mediator, Arbitrator, Referee

Michelle West, Esq.
Robinson Calcagnie
Plaintiff's Counsel

Wilma Gray, Esq.
McNamara, Ambacher, Wheeler, Hirsig & Gray LLP
Defense Counsel

Lauren Wood, Esq.
L Wood Law & WITTS
Founder
Moderator

CONTACT

Debra Bogaards, Esq. | dbogaards@adrservices.com | katyteam@adrservices.com
Lauren Wood, Esq. | lauren@womenintrialtravelsummit.com
Michelle West, Esq. | mwest@robinsonfirm.com
Wilma Gray, Esq. | wilma.gray@mcnamaralaw.com

A MEDIATOR'S PERSPECTIVE

DEBRA BOGAARDS, ESQ.

1. Plaintiff's mediation brief, with exhibits attached, should be given to defense counsel and the mediator at least a month ahead of time.
2. A Confidential Supplemental Mediation Brief can be submitted to the mediator.
3. The mediator may hold pre-mediation Zoom conferences with the defense when there are multiple layers of coverage.
4. When a defendant is unable to pay a fair and reasonable settlement due to financial troubles, the mediator can invite both counsel into her Zoom office to review the defendant's financial statements.
5. Non-monetary terms can assist the mediator in persuading the plaintiff to settle her case.
6. Consider an in-person mediation for your client's benefit!

PLAINTIFF'S COUNSEL'S PERSPECTIVE

MICHELLE WEST, ESQ.

1. Prep your clients completely for the process. Explain everything. Get your bottom line authority and then have some room for "hero" money.
2. Protect your clients - No Joint Sessions (with some exceptions). Tell the mediator and make sure they understand no means no.
3. Rome wasn't built in a day, and your case may not settle in one. It's okay and it is a process. Don't panic.
4. Know your expenses, liens/lien status and moves you are willing to make (fee reduction) to get the deal done.
5. Let the mediator do his/her job. If you hire the best, they will do a lot of the hard work for you as long as you give them the ammunition.

DEFENSE COUNSEL'S PERSPECTIVE

WILMA GRAY, ESQ.

1. Good to get a settlement demand from the Plaintiff as far in advance as possible, so defense counsel can provide it to the client and insurance carrier, who then can be prepared for meaningful settlement negotiations. At a minimum include demand in Plaintiff's Mediation brief. (Please do not surprise the defense with a demand on the day of the Mediation; especially if it is a number in excess of the insurance policy limits!)
2. Provide defense counsel with a copy of Plaintiff's Mediation brief, so they can use your good points and number to report to defense client and carrier.
3. As defense counsel, start early and plan ahead before a Mediation to make sure all necessary parties (adjuster, excess adjusters, client, personal counsel, coverage counsel, etc.) are on notice and in attendance at the Mediation for productive negotiations.
4. Defense counsel should talk to opposing counsel early if there are insurance coverage limitations. Perhaps offer a Declaration of No Other Insurance (for a minor, or a person of limited means.)
5. Defense counsel should know the economic damages (Howell number; income numbers; etc.) and be prepared to provide the mediator with evidence to support the numbers offered by the defense.
6. Don't give up too soon at Mediation. Even if the parties are far apart, work with the mediator to keep settlement discussions going. (Most movement often occurs in the last hour.) Trust the process!